IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2005

CORAM

THE HON'BLE MR.MARKANDEY KATJU, CHIEF JUSTICE
and
THE HON'BLE MR.JUSTICE D.MURUGESAN

W.A.Nos.2180 to 2182 of 2003

The Management of
Sri Bharathi Motor Service,
Sholingur,
Vellore District. ..Appellant in all the W.As.

Vs.

A.R.Annamalai ..R1 in W.A.No.2180 of 2003

N.L.Velusamy ..R1 in W.A.No.2181 of 2003

G.Radhakrishnan ..R1 in W.A.No.2182 of 2003

The Presiding Officer,
Labour Court,
Vellore. ..R2 in all the W.As.

PRAYER: Appeals filed under Clause 15 of the Letters patent against the order dated 27.02.2003 passed in W.P.Nos.14832, 14858 and 14947 of 2000, as stated therein.

For Appellants :: Mr.N.Manoharan

For Respondent-1 in all the W.As. :: Mr.R.Balasubramanian

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J U D G M E N T

(The Judgment of the Court was delivered by The Hon'ble The Chief Justice)

These writ appeals have been preferred against the common order dated 27.2.2003 passed by the learned single Judge, dismissing the writ petitions filed by the appellant herein.

2. We have heard the learned counsel for the parties and have perused the record.

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3. Respondents-workmen were employed under the appellant-Management and their services were terminated. They raised an industrial dispute before the Labour Court. The Labour Court, by award dated 21.3.1994 directed the reinstatement of the workmen with backwages and all other attendant benefits. The management challenged the award of the Labour Court before this Court in W.P.No.3821 of 1996, which was dismissed on 27.06.1997 and the writ appeal against that judgment was also dismissed. We are informed that against the dismissal of the writ appeal no Special Leave Petition has been filed before the Supreme Court. Therefore, the award of the Labour Court, which has been upheld by this Court, has become final and by the said award, the workmen are entitled to be reinstated with backwages and all other attendant benefits. The Management, however, did not reinstate the workmen despite the award of the Labour Court and the judgment of this Court. In the mean time, the workmen, filed an application under Section 33C(2) of the Industrial Disputes Act before the Labour Court, but they withdrew the said application since a stay order had been granted by the High Court against the award of the Labour Court. However, subsequently when the High Court finally decided in favour of the workmen, they again filed an application under Section 33C(2) of the Industrial Disputes Act and that has been allowed. Against that order, the Management filed the writ petition, which has been dismissed by the learned single Judge. Hence, these writ appeals.

4. On the facts and circumstances of the case, we find no merit in these writ appeals. The award of the Labour Court, which has been upheld by this Court, directing the reinstatement of the respondent-workmen has to be complied with by the appellant-Management. It was not proper of the appellant-Management to have not complied with the award of the Labour Court or the judgments of this Court by which the award was upheld. We see no merit in the appeals. Learned counsel for the appellant raised the plea of res judicata, contending that the second application under Section 33C(2) was not maintainable since the first application had been dismissed. This argument has no force. The principle of res judicata applies only when there is an adjudication on merits. The first application was not dismissed on merits, but was not pressed. Hence, there is no res judicata, vide L.I.C. Vs. G.U.Ranade, AIR 1990 SC 185 (pages 19 to 21). We are informed that the respondent-workmen have already reached the age of superannuation. Hence, they shall be permitted to withdraw the award amount deposited by the appellant. The respondent-workmen are permitted to withdraw the entire award amount, including interest accrued on such amount, deposited by the appellant in the Labour Court.

5. The writ appeals are dismissed. Connected W.A.M.P.No.257 to 259 of 2005 are closed.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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Three ccs to Mr.R.Balasubramanian, Advocate SR.nos.9645, 9646, 9647.

Three ccs to Mr.N.Manoharan, Advocate SR.Nos.9655, 9656 & 9657.

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